

LOWER

Fremont River Distribution Meeting Minutes:

Annual Water Users Meeting
February 1, 2006

Minutes of the Fremont River Distribution System held at Loa, Utah.

The meeting convened at 1:00 pm with Mr. Lee Sim conducting.

Mr. Sim brought the meeting to order and asked Mr. Jim Wells to read the minutes of the water user's meeting held February 3, 2005.

Mr. Wells read the minutes. Mr. Keith Durfey then raised a question regarding measurement of Pleasant and Oak Creek water. The ensuing discussion indicated that a past court decision had recognized measurements of the respective creek flows at the boundaries of the Notom and Sandy Ranches as the official measure. It was indicated that the official measuring device on Oak Creek had been repaired, but that the "unofficial" device higher up the mountain had not been repaired. Mr. Phillip Pace made a motion to accept the minutes as read. Mr. Richard Jensen seconded the motion. Motion passed by Water Users.

Mr. Kirk Forbush then read the 2005 Commissioner Report prepared by Commissioner Jan Ellet.

Mr. Sim asked for comments, Mr. Kay Hickman pointed out that only about half (4 cfs) of the "A" water can be delivered to the Lower Fremont Group through the 15 inch pipe.

Mr. Pace indicated that the Alexander rights had no measuring devices.

Mr Hickman indicated that a measuring device was needed on the water from the power plant canal. Mr. Forbush indicated that at last year's meeting, the plant indicated they would install some low head measuring devices.

Mr. Eric VanKainen pointed out that the report doesn't mention measurements of the Garkane Canal.

Ms Cathy Bagley asked what action could be taken to require measurements of the Alexander rights.

Mr. Sim indicated that a warning letter or Cease and Desist order could be sent stating that installation of measuring devices was required or no water use would be allowed.

Mr. John Jackson asked who would monitor compliance with any order.

Mr. Hickman suggested that Ed White, the irrigation company Water Master may be able to monitor compliance, but questioned whether Mr. White would have any legal authority.

Mr. Sim indicated that the Water Master's authority is only over shares in the company. A discussion of the status of canal users ensued. It was suggested that the canal was jointly used by multiple water right holders, and the water Master may only have authority over the Dump Creek Canal Co. share holders and that the Company's Articles of Incorporation could be researched to ascertain that. The discussion concluded that monitoring and shutting off flows would best be left to the State appointed River Commissioner.

Mr. Sim requested a motion to accept that portion of the report not dealing with reassignment of a Commissioner. Ms. Bagley made a motion, Mr. Stan Alvey seconded it. Motion carried.

Mr. Sim then initiated a discussion regarding the position of River Commissioner.

Mr. Stan Alvey indicated that the principal problem was the infrequent visits the commissioner makes to the Lower Fremont Headgates during the "hot" season. That the commissioner only visited 3 times during the 2005 hot season and that the lower users went seven days without any water. Mr. Alvey recognized that this period was when Mr. Ellet's schedule was the busiest, but that the Lower System needed to be watched closer.

Mr. Jackson indicated that the issue has been the same for 35 years. The Lower Fremont users have difficulty getting their water. Hanksville users can't contact Jan when problems arise. The system needs to be operated so that "A" water user's in Hanksville are fully satisfied before "B" water users in the Upper Valley begin diverting. The system should try appointing a Lower System user as Commissioner.

Mr. Durfey raised the question of whether the National Park was exceeding their use, by diverting 8 cfs to irrigate 77 acres.

Mr. Forbush indicated that 8 cfs is the flow rate given in the Bates decree. A discussion ensued about the limitation of the Park's water right and the status of their meter. Mr. Sim indicated that the State Engineer's office had not completed an Adjudication. Mr. Jackson indicated that the Park should have their flows pro-rated consistent with other diversions.

Mr. Sim then opened a discussion regarding replacement of the Commissioner and indicated that an hourly rate or salary would need to be decided so it could be included in advertising. Mr. Jackson indicated that the court decision spells out the Commissioner's hours.

Ms. Bagley indicated she could provide Mr. Sim with a copy of the court decision and could see to having the advertising notice we write posted in the newspaper. Mr. Sim

indicated he would email the position description to Ms. Bagley by February 3, 2006 so it could run in the newspaper February 9th and 16th. We could accept applications until February 23 and interview applicants starting March 1st at 1:00 pm. After interviews the State Engineer's representative could meet with the water user's to make a hiring decision. Mr. Jackson stated that he would support hiring a commissioner from among the Lower Fremont users.

Mr. Sim then read the Financial report signed 1/31/2006 by Jerry Olds. Mr. Sim explained that assessments were based on water right percentages not on measured use. A motion to accept the Financial report was made by Mr. Forest Sims and seconded by Mr. Durfey. Motion carried.

Mr. Sim then lead a discussion of the 2006 budget. He indicated that the current IRS rate for mileage reimbursement was 44.5 cents per mile. Mr. Durfey asked who the cell phone belonged to. Mr. Sim indicated it was the distribution systems. Mr. Jackson indicated the phone didn't work in Hanksville.

Mr. Sim suggested a new phone purchase might be in order and asked for input on the commissioner's hours. Mr. Jackson indicated that he had estimated that the commissioner would need to visit the entire system about 27 times per season and if each visit took 8 hours, that would be a total of 216 hours. It was further estimated that the total mileage for the 27 trips would be about 5400 miles. At the IRS rate of 44.5 cents/mile this would equal about \$2400.

Mr. Sim reviewed past financial reports and indicated that in 1994 the Commissioner's salary had been \$2400 and the travel expense \$2000. Taking these issues into consideration the Commissioner's salary for 2006 was set at \$2500 and the total 2006 budget equaled \$5600.00. A motion to accept the budget was made by Mr. Durfey, seconded by Mr. Alvey and carried by the users.

A motion to set the assessment at \$2500 was made by Mr. Jensen and seconded by Mr. Pace. The motion was approved.

Phillip Pace (chair) and Keith Durfey the current representatives, terms have expired. A discussion of appointing representatives was initiated.

Mr. Jackson made a motion to suspend the rules and re-appoint the representatives by acclamation. Mr. Hickman seconded this motion. Re-appointing Phillip Pace as chairman and Keith Durfey as committee member was unanimously supported.

Mr. Sim then discussed water rights enforcement procedures and provided the attendees with an explanatory pamphlet.

Mr. Sim emphasized that violations or disputes involving shareholders in an irrigation company would typically need to be addressed by the company.

Mr. Jackson asked if tampering with a head gate would fall under the water rights enforcement.

Mr. Sim indicated unless it were flagrant or persistent it would be best handled by the River Commissioner.

The meeting was adjourned at 4:40 p.m.